

3 PLANNING APPEAL DECISION (AN29-2013)

LOCATION: 34 BELLFIELD STREET, DUNDEE

PROPOSAL: CERTIFICATE OF LAWFUL USE FOR CLASS 1 RETAIL USE

Reference is made to the decision of the Council on 9th November, 2012 under powers delegated to the Director of City Development, to refuse a Certificate of Lawful Use for the above proposal. The application was refused because it was considered that the evidence submitted with the application was insufficient to demonstrate that the use of the area, as detailed in the submitted plan, for Class 1 retail use would lawful.

The decision was appealed by the applicant and the decision on the appeal was received by the Council on 20th February, 2013. Copies of the Reporter's decision letter have already been circulated to Members by E Mail.

The Reporter **DISMISSED** the appeal and refused to grant the certificate sought.

Certificate of Lawfulness applications are considered on the basis of the evidence submitted. The planning merits of the case are irrelevant. The applicant contended that the appeal property was a car showroom with a floor area not exceeding 235 sq metres and therefore it benefited from permitted development rights to change the use to Class 1 retail.

The Reporter agreed with the Council that the appeal site was not a planning unit in its own right but was part of a larger garage business where a number of interrelated activities took place but where none constituted a separate planning use or unit in its own right. He also agreed with the Council that part of the application site was not in car showroom use. However he did not agreed with the Council's contention that in any event the car showroom use had been abandoned.

Accordingly he concluded that the Council's reason for refusing the application was well founded and that the certificate should not be granted.